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TECH CENT PATENT

Attorney Docket No. 1663-00120US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

JOHN R. CASHMAN et al.

Application No.: 09/583,310

Filed: May 30, 2000

For: DNA SEQUENCE ENCODING
FLAVIN-CONTAINING
MONOOXYGENASE

Examiner: P. Tung

Art Unit: 1652

**RESPONSE TO RESTRICTION
REQUIREMENT**

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This communication is in response to the Restriction Requirement dated September 28, 2001. The Examiner has stated that the following groups of claims are subject to restriction:

- I. Claims 3-5 and 37, drawn to the DNA sequence of SEQ ID NO: 5, the DNA sequence encoding SEQ ID NO: 6 and a host cell comprising said DNA sequence, classified in class 435, subclass 189; and
- II. Claims 38 and 39, drawn to the DNA sequence of SEQ ID NO: 7 and the DNA sequence encoding SEQ ID NO: 8, classified in class 435, subclass 189.

Applicants elect to prosecute Group I, claims 3-5 and 37, with traverse, and reserve the right to file a divisional or related application to the claims of the non-elected group. As to the traverse, Applicants note the sequences of the two different groups have been both classified in the same class (435) and subclass (189). Therefore, the assertion of the "divergent classification" in the Office Action to justify the restriction, appears to be misdirected. Additionally, Applicants note that these same claims have already been searched and examined in the parent application 08/617,671 (see Paper No. 13), and thus no additional searching or burden will be imposed on the Office. Under such circumstances the Office typically encourages the simultaneous prosecution of such claims, even if they may encode products capable of separate manufacture, etc. Accordingly, reconsideration and withdrawal of the

restriction requirement is respectfully requested.

If for any reason the Examiner feels that a telephone conference would expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 206-467-9600.

Respectfully submitted,

Dated: November 28, 2001

By: Steven W. Parmelee

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